

7AC/22W

03500.014507 (35.C14507)

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Large Application of:

Seiji HASHIMOTO, et al.

Application No.: 09/584,198

Filed: May 31, 2000

For: IMAGE PICKUP APPARATUS
HAVING PLURAL PIXELS
ARRANGED TWO-DIMENSIONALLY,
AND SELECTIVE ADDITION OF
DIFFERENT PIXEL COLOR
SIGNALS TO CONTROL SPATIAL
COLOR ARRANGEMENT

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:
) Examiner: Heather R. Jones
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) Group Art Unit: 2615
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) Issued: January 31, 2006
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) Patent No.: 6,992,714 B1
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) Confirmation No: 4061
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) March 28, 2006
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Mail Stop Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF
PATENT ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)

Sir:

RELIEF REQUESTED

Patentees hereby request reconsideration and recalculation of the Patent Term Adjustment (PTA) for the above-identified patent. See 37 C.F.R. § 1.705(d). For the following reasons, this patent is believed to be entitled to a PTA of 994 days (i.e., the 944 days presently allotted, plus 50 additional days erroneously charged as Applicants' delay).

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FACTS

1. On July 28, 2000, Applicants filed an Information Disclosure Statement.
2. On September 3, 2004, Applicants filed an Amendment changing the title of the invention.
3. On January 14, 2005, a Notice of Allowance was mailed that indicated a 886 day extension.
4. However, the Notice of Allowance did not reflect the title as amended on September 3, 2004.
5. And the U.S. Patent and Trademark Office had not yet returned a copy of the Information Disclosure Citation Form (Form PTO-1449) from the July 28, 2000 Information Disclosure Statement.
6. Accordingly, on February 10, 2005, Applicants filed a Request for Corrected Notice of Allowance and a Request for Consideration of Previously Filed Information Disclosure Statement.
7. On April 6, 2005, Applicants paid the issue fee.
8. On April 20, 2005, the U.S. Patent and Trademark Office issued a Supplemental Notice of Allowability, returning a copy of the Form PTO-1449.
9. On December 1, 2005, the U.S. Patent and Trademark Office issued a Communication (a) indicating that a February 10, 2005 Amendment Under 37 C.F.R. § 1.312 had been entered even though, as discussed above, no Amendment Under 37 C.F.R. § 1.312 had been filed, and (b) acknowledging the Request for Corrected Notice of Allowance.
10. On January 31, 2006, the subject patent issued, indicating a PTA of 944 days, with the PAIR system indicating, among other delays charged to Applicants, 120

days for the filing of an Amendment Under 37 C.F.R. § 1.312, which, as discussed above, had not been filed.

11. The patent is not subject to any terminal disclaimer.

12. In view of the foregoing, Patentees respectfully submit that there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in 37 C.F.R. § 1.704, between April 20, 2005, and December 1, 2005, which period corresponds to 50 days of 120 days charged as Applicant delay.

ARGUMENT

Patent term adjustment is reduced by the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution. See 35 U.S.C. § 154(b)(2)(C)(i). When papers are filed after the mailing of a Notice of Allowance, such failure is present only when the paper causes “substantial interference and delay in the patent issue process”. See O.G. Notice "Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed" dated June 26, 2001. According to the Notice, papers said to cause such interference and delay include (1) a request for a refund, (2) a status letter, (3) amendments under 37 C.F.R. § 1.312, (4) late priority claims, (5) a certified copy of a priority document, (6) drawings, (7) letters related to biological deposits, and (8) oaths or declarations, whereas papers said not to cause interference and delay include (1) Issue Fee Transmittal, (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests. *Id.*

Here, Applicants filed two papers after issuance of the Notice of Allowance: (a) a Request for Corrected Notice of Allowance and (b) a Request for Consideration of Previously Filed Information Disclosure Statement.

Now the latter paper, the Request for Consideration of Previously Filed Information Disclosure Statement, was filed on February 10, 2005, and a responsive Communication was sent by the U.S. Patent and Trademark Office on April 20, 2005, which accounts for 70 of the 120 days delay charged to Applicant.

Meanwhile, the former paper, the Request for Corrected Notice of Allowance, was also filed on February 10, 2005, and a responsive Communication was sent by the U.S. Patent and Trademark Office on December 1, 2005. This accounts for the remaining 50 of the 120 days delay charged to Applicant. And it is this 50 day period that Patentees respectfully submit should not be charged to Applicant. This is because contrary to the position taken by the U.S. Patent and Trademark Office, the Request for Corrected Notice of Allowance cannot be considered an Amendment Under 37 C.F.R. § 1.312. Also, while a Request for Corrected Notice of Allowance is not specifically listed in the O.G. Notice as belonging to either of the aforementioned two classes of examples, Patentees respectfully submit that such a paper as filed in this case is not a paper causing interference and delay, and therefore should not affect PTA.

Therefore, Patentee respectfully submits that the 120 days charged as Applicant delay from February 10, 2005, to December 1, 2005, should be reconsidered, and recalculated as 70 days instead. As a result, 50 additional days of term should be granted.

FORMAL MATTERS

Submitted herewith is a check for \$200.00 for the fee set forth in 37 C.F.R. § 1.18(e). Any deficiency in this fee may be charged or any overpayment credited to Deposit Account No. 06-1205.

REQUEST FOR INTERVIEW


If any questions remain, Patentees respectfully requests that the U.S. Patent and Trademark Office contact Patentees' undersigned representative at (202) 530-1010 to schedule an interview.

CONCLUSION

In view of the foregoing, favorable consideration hereof and reconsideration and recalculation of the PTA to be 994 days are earnestly solicited.

Patentees' undersigned attorney may be reached in our Washington, D.C., office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address below.

Respectfully submitted,



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